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FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO, IL 60603-3406

EXAMINER
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MOSSER, ROBERT E

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3714

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/767,407  
Filing Date: January 29, 2004  
Appellant(s): DOAGA ET AL.

**MAILED  
DEC 14 2007  
GROUP 3700**

Steven G. Parmelee  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed August 14<sup>th</sup>, 2007 appealing from the Office action mailed June 15<sup>th</sup>, 2007.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: The rejection of claims 1-4, and 7-9 rejected under 35 U.S.C. 102(b) has been replaced with a rejection under 102(b)/103(a).

**NEW GROUND(S) OF REJECTION**

Claim 1-4, and 7-9 rejected under 35 U.S.C. 103(a) as obvious over Dudley (US 5,772,534).

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,772,534	DUDLEY	6-1998
6763236	SIREN	7-2004

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Applicant Admitted Prior Art**

In the Non-final rejection dated September 21<sup>st</sup>, 2006 the Examiner presented the following items under Official Notice.

The examiner gave Official Notice that golf courses containing at least nine holes are extremely old and well known in the art of golf.

The examiner gave Official Notice that it is old and well known that such mobile phone networks as taught by Siren commonly encompass residential areas.

These item were not challenged in the Appellant's response of February 16<sup>th</sup>, 2007 following the Non-final rejection dated September 21<sup>st</sup>, 2006 and are therefore considered Applicant Admitted prior art.

***Claim Rejections - 35 USC § 102 / 103***

Claims 1-4, and 7-9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dudley (US 5,772,534).

Claims 1-2, and 7-8: Dudley teaches a golf course information and communication system including:

a local area network including a plurality of wireless access points disposed about the periphery of a golf course (Figures 1, 5; Elements 30, 32 );

a wireless communication protocol operable across the wireless access points and enabling the automatic updating of golf course infrastructure information including current pin placement information (Columns 7:65-8:7 & 10:18-21); and

enabling subscriber communications through a plurality of portable interface units; (Abstract & Column 8:55-9:11).

While the presented embodiments of Dudley present multiple electronic devices incorporated into each golf cart (Figures 2-4) and wherein these device are connected through a club house in a wireless manner thereby establishing a plurality of wireless access points from the perspective of the club house, the Appellant suggests that the local area network access points must equated to the broadcast towers of Dudley. Though such an interpretation would require a selective reading of presented claim language it is understood that such an interpretation would merely represent the duplication of Dudley's antenna (Element 28) and that such a duplication would have been obvious to one of ordinary skill in the art at the time of invention in order to provide

communications around geographical features of a course that would otherwise inhibit the transmission and reception of radio signals. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)

Claims 3-4: In addition to the above Dudley teaches that the communication system extends throughout a majority of the golf course and further includes at last a club house or equivalently a zone separate from the golf course as so claimed (Figure 1 & Column 9:9-11).

Claim 9: Dudley additionally teaches the automatic updating of golf course infrastructure information as automatically broadcasting pin placement pursuant to a first broadcasting schedule (Column 10:18-23) however Dudley is silent regarding the incorporation of a second broadcasting schedule delineating the claimed "old pin placement" and the claimed "new pin placement", however the claim while noted as not indefinite by the examiner does not presently establish that the first and second broadcasting schedules are different, and through what measure a pin placement is to be utilized in determining what constitutes "old" rather than being considered "new" within the body of the claim. Accordingly the broadcast procedure of Dudley is understood to present the user device with a first broadcast upon the relocation of exemplary pin number three upon it's initial occurrence thereby providing the new location according to a first broadcast schedule, and additionally constitute an old pin location through second broadcast at a later time to a separate user device which was

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unavailable to receive the first broadcast thereby effectively communicating an old pin location on a second schedule. Finally the claim additionally recites that the broadcasting is accomplished through automatic means, as the device of Dudley transmits the updated course information responsive to the activation of a reset button by an operator located remotely at a club house and does not further require manual interaction with the respective device by said operator it is understood to constitute an automated process.

***Claim Rejections - 35 USC § 103***

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dudley (US 5,772,534).

Claim 6: Dudley teaches the use of the information system on a golf course with multiple holes (Column 7:47-59) however is silent that the golf course contains at least nine holes. It is Applicant admitted prior art that golf courses containing at least nine holes are extremely old and well known in the art of golf. It would have been obvious to one of ordinary skill in the art at the time of invention to have utilized a golf course containing at least nine hole as the golf course utilized by Dudley in order to incorporate a commonly available course format.

Claims 5, and 10-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dudley (US 5,772,534) in further view of Siren (US 6,763,236).

Claims 5, and 16-17: In addition to the above Dudley is silent regarding the extending of the wireless network to include residential zones however Siren teaches

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the utilization of common wireless networks for the transfer of data related to specific areas and interests (*Siren* Abstract). It is Applicant admitted prior art that it is old and well known that such mobile phone networks as taught by Siren commonly encompass residential areas. Accordingly it would have been obvious to one of ordinary skill in the art at the time of invention to have utilized a common communication network such as taught by Siren in the specific application of a communication network taught by Dudley in order to reduce the installation cost for the system Dudley by not requiring the installation and upkeep of a private communication system.

**Claim 10, and 19:** The communication system of Siren is taught as utilizing General Packet Radio Service for communication and hence include packet data subscriber communication as claimed (*Siren* Column 1:15-39).

**Claims 11-14, and 22:** The communication system of Siren teaches a subscriber authorization server for determining the type and speed of the connection available to subscribers based on the amount respectively paid for each subscription and further allowing the subscriber access to a data network including the internet (*Siren* Column 3:14-60).

**Claims 15, 20, and 21:** In addition to the above, Dudley further teaches dedicating a portion of the wireless network to support golf course infrastructure information including updating the club house on the position of the golf carts throughout the course (*Siren* Abstract) and pin placement while the communication system Siren teaches the use of subscriber-subscriber communication as normal voice calls in addition to the data-network features (*Siren* Column 5:5-9)



Claim 18: The plurality of wireless access points originally presented in Dudley as cited above in the redress of claim 2 is replaced by the plurality of cell towers implicit to the cellular network of Siren in the combination of Dudley and Siren.

### **(10) Response to Argument**

*I. On pages 5 through 11 of the Brief the Appellant cites three perceived points of separation between their claimed invention and the prior art. These points discussed further below however, are critically flawed and therefore cannot establish the separation as so alleged.*

(a) The Appellant proposes a narrow interpretation of the prior art wherein the network of Dudley is characterized by a single antenna and therefore allegedly fails to provide multiple access points (Brief pages 5-6, & 8-9).

The Appellant attempts to frame the claimed "wireless access points" as solely the club house antenna of Dudley however this excessively narrow interpretation goes far beyond even the Appellant's own supplied definition of what constitutes a wireless access point. For instance on page 9, the Appellant presents, "It is well understood in the field of computer networking that a wireless access point comprises a device that connects other network devices together." The simple point here, is that the antenna assembly of the golf carts (Element 48, Figures 3, 5) provides a connection to the club house and hence meets the Appellant's own definition of a wireless access

point. The Appellant's desire to correlate the wireless access point of the presented claims to the singular club house antenna of the prior art relies on an improperly narrow interpretation of the prior art.

The Appellant's arguments continue through page nine, to suggest that the Examiner presented correlation would be an "utterly contrary interpretation" because under the Appellant's interpretation the golf cart antenna's must be "end points". The presentation of the term "endpoints" however, is absent from the claims, the Appellant's own specification, or even by the prior art reference of Dudley. The creation and or at the very least introduction of these "endpoints" demonstrates an attempt by the Appellant to provide a proposed point of novelty not recognized by the record of this application.

(b) The Appellant contends that every transmission in the system of Dudley is not automatic because "every" transmission in Dudley is responsive to a human hitting a button (Appellant's brief Pages 6-7, &10).

The Appellant's arguments contained within the above listed pages fail to place any criteria or definition on the term automatic and instead attempt to place a definition implicit to their arguments wherein, automatic as now characterized by the Appellant is only defined in so much as it precludes the activation of a button to commence operation. Such a definition however is unreasonably narrow because it would necessarily contradict the plain and ordinary meaning and use of the term automatic. For instance an automatic garage door opener includes a remote with a button to

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activate it, and even the automatic transmission of the vehicle one may be driving into that garage changes states of operation between drive and park through the use of a switch. Simply the inclusion of a system activation step such as a system reset switch as the Appellant argues does not diminish the ability of Dudley's system to support automatic updating of course infrastructure information.

(c) The Appellant suggest that the system of Dudley fails to provide subscriber communication and only provides course infrastructure information and contradicts the teachings of Dudley (Brief pages 6, & 11)

While acknowledging that the prior art reference of Dudley teaches the communication of course infrastructure information, the Appellant argues that Dudley fails to teach "subscriber communications". With respect to this feature the Appellant's specification paragraph suggests that these communication would have nothing to do with the golf course but instead pertain completely to the needs and interests of the subscribers themselves. With respect to this, Dudley teaches the inclusion of an emergency communications feature wherein a golfer may signal the club house regarding a need for medical assistance (Col 8:61-9:11). The signaling of an emergency condition meets the Appellant's own definition for what constitutes subscriber communication.

*II. On pages 12 through 13 of the Brief the Appellant challenges the combination of Dudley and Sirén premised on the interpretation wherein Dudley allegedly fails to*

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*teach subscriber communication.* This interpretation has been previously redressed by the Examiner in the preceding section enumerated I(c) above. Accordingly as the premise that Dudley fails to teach subscriber communication has been shown to be deficient the Appellant's arguments reliant on this allegation must in kind also be deficient.

The Appellant has presented three separate core proposed points of proposed novelty which have each in turn been redressed above. The Appellant has argued an overly narrow interpretation of their wireless access points, additionally an interpretation of the term automatic contrary to its plain and ordinary meaning, and finally that the suggestion that an individual requesting medical assistance does not constitute personal communication. In view of this rebuttal the pending rejection of claims should be maintained.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer

exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

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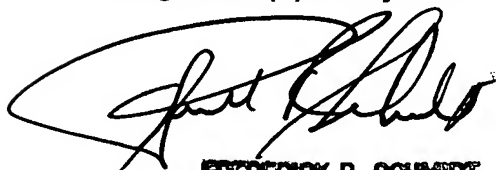


Robert Mosser

Patent Examiner

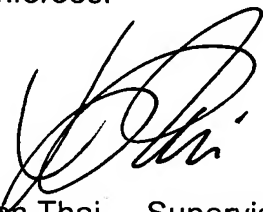
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A Technology Center Director or designee must personally approve the  
new ground(s) of rejection set forth in section (9) above by signing below:

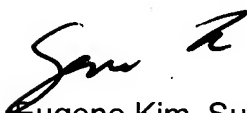


**FREDERICK R. SCHMIDT**  
**DIRECTOR**  
**TECHNOLOGY CENTER 3700**

Conferees:



Xuan Thai Supervisory Patent Examiner Technology Center 3700



Eugene Kim Supervisory Patent Examiner Technology Center 3700